

Internal Revenue Service  
Director, Exempt Organizations

Department of  
P.O. Box 2508  
Cincinnati, OH

Date: SEP 15 2000

Employer Identification Number:  
[REDACTED]

Person to Contact - I.D. Number:  
[REDACTED]

Contact Telephone Numbers:  
[REDACTED] Phone  
[REDACTED] FAX

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code. However, we have concluded that you do not qualify under another subsection.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual individual income tax return on Form 1040 on behalf of the founder.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 832, "Exempt Organizations Appeal Procedures for Unagreed Issues." The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.



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If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides, in part, that:

A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(c) of the Code.

Sincerely,

Steven T. Miller

Director, Exempt Organizations

Enclosures: 3



NAME: [REDACTED]  
EIN : [REDACTED]

ENCLOSURE I

Reasons for Adverse Action

You were formed on [REDACTED]. The primary purpose for which you were formed was to undertake a business venture as indicated in the flyer titled "[REDACTED]". You also plan to operate "the [REDACTED] a month club" and a [REDACTED] Club. The following are your activities as indicated by you in your application and confirmed by you on the telephone on [REDACTED].

A sum of \$[REDACTED] is paid to a company called [REDACTED]. This company provides you with a mailing list (labels) of [REDACTED] people. The Flyer titled "[REDACTED]" is then sent out to these people by your organization. Your name is inserted in the mail order form on the bottom of the Flyer. Print and Mail services and advertisement services are also offered where these letters are sent to up to [REDACTED] people.

Upon the receipt of a response from a person to which the above Flyer is sent, along with the payment amount specified, "[REDACTED]" is forwarded to the respondent. Along with this report an order form is enclosed for additional material for an additional \$[REDACTED]. Upon receipt of the completed order form and the amount specified an "[REDACTED]" is sent to them.

You will use the money so collected to start an offshore account in [REDACTED]. Additional money received from applying to various organizations listed in a [REDACTED] will also be deposited in the offshore account. After a period of [REDACTED] the founder [REDACTED] will start receiving money back on the investment.

Money received from the investment will be utilized to meet the college expenses, living expenses, and be retained as savings of the individual who owns the business. In the instant case they will benefit the owner/founder of [REDACTED]. [REDACTED] confirmed this over the telephone on [REDACTED].

Recipients of the Flyer and the subsequent Reports will then set up their own business by inserting their organization's names in the flyers, obtaining mailing list labels from [REDACTED] and continue the same process.

You also plan to operate "The [REDACTED] a Month Club". Applicant will purchase a [REDACTED] mailing list from [REDACTED]. This will put applicant on a "[REDACTED]". As the organization recruits new members at a monthly fee of \$[REDACTED] they get a payoff based on different levels of the matrix.



NAME : [REDACTED]  
EIN : [REDACTED]

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You also plan to operate a [REDACTED]. You pay an amount of \$ [REDACTED] to become a member of the club. You then recruit other members to the club. The amounts of membership fees paid by the new members recruited by you are collected and placed in a Trust account for members. [REDACTED] of such fees collected are used to pay off the debts of the recruiting member.

Section 501(c)(3) of the Internal Revenue Code provides for the exemption from Federal income tax, Corporations, and any community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or to foster national or international amateur sports competition or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in subsection (h)) and which does not participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of (or in opposition to) any candidate for public office.

Section 1.501(c)(3)-1(a)(1) of the Income Tax regulations states that in order to qualify under section 501(c)(3) of the Internal Revenue Code an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Sec 1.501(c)(3)-(d)(1)(ii) of the Income Tax regulations states that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus to meet the requirements of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.



NAME : [REDACTED]  
EIN : [REDACTED]

In Better Business Bureau of Washington, D.C., Inc v. United States, 326 US 179, the supreme court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy the claim for exemption regardless of the number or importance of truly exempt purposes.

In KJ's Fund Raisers, V. Commissioner, T.C. Memo 1997-424 (1997) the Tax Court found that while the organization raised money for charitable purposes, it also operated for the substantial benefit of private interests. The court concluded that KJ's Fund Raisers was operated for substantial private benefit and did not qualify for exemption. The court of appeals affirmed the decision. It found that the organization had served the private interests of its directors in maintaining and augmenting their business interests.

In Trippe v. Commissioner (7/25/1950) the United States Tax Court held that in order for an expenditure to held as a charitable contribution the donee must be "a corporation, trust, or community chest, fund or foundation" organized and operated exclusively as a charity. The Court also added that it contemplates an entity or association capable of taking, as well as one that must have been, in its inception, organized exclusively for charitable purposes, and in fact has operated as such. The court added that "a group of ladies" was not a corporation, trust or community chest, fund, or foundation as was contemplated by the Statute. The Court found that not only was there an absence of organization, there was also no stated exclusive charitable purpose, nor a showing that the operation was exclusively for charity.

In Revenue Ruling 55-610 1955-2 C.B. 262. An organization, formed to operate the activities previously conducted by its principal founder, which plans to reimburse the founder for expenditures made by him in prior years in the conduct of these activities, is not entitled to exemption, since a portion of the net earnings of the organization will inure to the benefit of the founder.

Revenue Ruling. 76-366, 1976-2 CB 144 held that an association of investment clubs formed to enable members and prospective investors to make sound investments by the mutual exchange of investment information, that carries on not only educational activities but other activities directed to the support and promotion of the economic interests of its members, does not qualify for exemption under section 501(c)(3) of the Code.

Based on the information submitted your activities do not appear to be exempt activities under 501(c)(3) of the Internal Revenue Code. Therefore the principal of Better Business Bureau v. United States is



NAME: [REDACTED]  
EIN : [REDACTED]

applicable to you. In addition, the income is inuring to the benefit of the founder.

The income from the [REDACTED] program, the [REDACTED] a month program and the [REDACTED] all are to be used for the economic betterment of the founder. Therefore the principal of KJ's Fund Raisers Inc v Commissioner is also applicable to you.

Based on the above you do not meet the operational test for exemption under section 501(c)(3) of the Code. The presence of inurement and private benefit precludes exemption under any other code section.

Your application does not indicate any type of organization and there is no clearly stated exclusive charitable purpose, nor a showing that the operation was exclusively for charity. Therefore the principal of Trippe v. Commissioner also applies to you.

In conclusion you do not meet either the operational test or the organizational test under Section 501(c)(3) of the Code, since your activities are not exempt activities and you do not have an organizing document. Your activities are also intended to bestow a private benefit to the founder. Accordingly you do not qualify for exemption under 501(c)(3) or any other section of the Internal Revenue Code.



Form 6018  
(Rev. Aug. 1983)

Department of the Treasury - Internal Revenue Service  
Consent to Proposed Adverse Action  
(All references are to the Internal Revenue Code)

Case Number

Date of Latest Determination Letter

Employer Identification Number

Date of Proposed Adverse Action Letter

SEP 15 2000

Name and Address of Organization

I consent to the proposed adverse action relative to the above organization as shown below. I understand that if Section 7428, Declaratory Judgements Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

☒ Denial of exemption

☐ Revocation of exemption, effective

☐ Modification of exemption from section 501(c)( ) to section 501 ( ), effective

☐ Classification as a private foundation described in section 509(a)), effective

☐ Classification as an private operating foundation described in sections 509(a) and 4942(j)(3), effective for

☐ Classification as an organization described in section 509(a)( ), effective

☐ Classification as an organization described in section 170(b)(1)(A)( ), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgement under section 7428.

(Signature Instructions on Back)

Name of Organization:

Signature and Title

Date

Signature and Title

Date

Form 6018-C.G. (Rev. 8-83)

054-0010